

1 DANIEL BOGDEN  
United States Attorney  
2 NICHOLAS D. DICKINSON  
PHILLIP SMITH  
3 Assistant United States Attorneys  
Organized Crime Strike Force  
4 KEVIN L. ROSENBERG  
Department of Justice  
5 Organized Crime and Gang Section  
Lloyd D. George United States Courthouse  
6 333 Las Vegas Blvd. South, Suite 5000  
Las Vegas, Nevada 89101  
7 Telephone: (702) 388-6336  
Facsimile: (702) 388-6418  
8  
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10 Attorneys for Plaintiff  
United States of America  
11

12 UNITED STATES DISTRICT COURT

13 FOR THE DISTRICT OF NEVADA

14 UNITED STATES OF AMERICA,	) No. CR 08-283-RJC-RJJ
	)
15 Plaintiff,	) <u>GOVERNMENT'S MEMORANDUM IN</u>
	) <u>COMPLIANCE WITH THE COURT'S</u>
16 v.	) <u>SEPTEMBER 6, 2012 ORDER</u>
	)
17	)
18 MARKETTE TILLMAN,	)
	)
19 Defendant.	)
	)
20	)

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21  
22 Plaintiff United States of America, by and through its counsel  
23 of record Assistant United States Attorneys Nicholas Dickinson, and  
24 Phillip Smith, and Trial Attorney Kevin L. Rosenberg, respectfully  
25 file this memorandum in response to the Court's order dated  
26 September 6, 2012. (Doc. 749)  
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STATEMENT OF THE CASE

On October 11, 2011, the Government filed its notice of enterprise evidence, addressing evidence that it intended to offer during the Government's case in chief. (Doc. 574) On April 27, 2012, defendant Booth filed a response to the Government's notice. (Doc. 695) On May 12, 2012, defendant Dunlap joined in defendant Booth's response. (Doc. 706) On May 24, 2012, defendant Tillman also joined in defendant Booth's response. (Doc. 707, 708) On June 14, 2012, defendant Taylor filed his own response to the notice of enterprise evidence. (Doc. 722) The Government replied to these motions and joinders on June 18, 2012. (Doc. 726) On August 10, 2012, the Court advised that it would rule on the enterprise issues through a written opinion. (Doc. 745)

On September 6, 2012, the Court issued an order denying the defendants' motions in limine as to nearly every disputed piece of evidence. (Doc. 749) The Court's order concluded by requesting that the Government "file a memorandum explaining its foundation for the admission of any evidence identified in the present Order with respect to which the Court has noted that additional foundation may be necessary." (Doc. 749, p. 11) This includes "the Crosby homicide, the 2002 casino robberies, the VFW incident, Taylor's mental health issues (apart from his alleged admission), the McClodden shooting, and the Dunlap shooting. (Doc. 749, p. 11)

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1                   **SUPPLEMENTAL FOUNDATION FOR ADMISSION OF EVIDENCE**

2           I.    Brandon Crosby Homicide

3

4           The Government seeks to introduce a limited amount of

5 evidence regarding the homicide of Brandon Crosby. This evidence

6 is part of the chain of events that culminated in the murder of

7 Brian Wilcox. Two witnesses came forward and identified a

8 suspect in the murder of Brandon Crosby. Those two witnesses

9 were then targeted by Defendant Tillman, who shot a gun at them.

10 Defendant Tillman was charged with attempted murder in connection

11 with this shooting and pled guilty to this offense. Tool-mark

12 analysis of the shell casings from this attempted murder were

13 compared to those recovered from the Brian Wilcox murder and are

14 a match.

15           While the government does not intend to 'get into the weeds'

16 of the Brandon Crosby murder, it is important for the jury to

17 understand the time line and order of events. The Government

18 should be able to present evidence that the reason these two

19 victims were targeted was not random, but because they were

20 cooperating with Las Vegas Metropolitan Police Detectives in a

21 murder investigation of another bloods member, albiet a blood

22 member from a different city.

23

24           Presentation of this evidence would not prejudice any

25 defendant unfairly. It merely allows the Government to present

26 the full picture of events and present motives for crimes.

1 II. 2002 Casino Robberies

2 The defendants are charged with a racketeering conspiracy.  
3 As part of the Government's case, it is required to prove the  
4 enterprise's pattern of racketeering activity. The indictment  
5 alleges that robberies affecting interstate commerce were part of  
6 the pattern of racketeering activity. The Government intends to  
7 present evidence of an armed robbery at the Klondike Casino in  
8 Henderson, Nevada.  
9

10 On March 21, 2002, Playboy Blood member Jessie James Cooper,  
11 who was armed with a revolver, and another male, who was armed  
12 with an assault rifle, robbed \$7,700 from the Klondike Casino in  
13 Henderson, Nevada. A witness saw a third male driving the get  
14 away car. Officers located the get away car and the suspects did  
15 not stop. The car eventually hit a parked car and the suspects  
16 fled. Officers apprehended Cooper, but the two other suspects  
17 escaped. Officers recovered a knit cap in the get away car. On  
18 March 22, 2002, officers executed a search warrant at 1710 Curran  
19 Street, Las Vegas, ("The Jets") and recovered a wallet in  
20 Cooper's name and baggies of crack cocaine. Officers also  
21 executed a search at Cooper's girlfriend's residence, which was  
22 2.3 miles from 1710 Curran, and recovered 82 grams of crack from  
23 a safe. Cooper admitted in his plea agreement that he was one of  
24 the two armed people who went into the casino and committed the  
25 robbery. But while detained, Cooper called his aunt and falsely  
26  
27  
28

1 stated that he did not go into the casino, rather two people from  
2 California committed the robbery.

3       On February 2003, Cooper pleaded guilty to Hobbs Robbery, 2-  
4 cr-00221-LDG and Possession with Intent to Distribute Crack  
5 Cocaine, 2-cr-00220-LDG.

6  
7       The FBI performed DNA analysis on the knit cap that the  
8 recovered a knit cap in the get away car. Defendant Taylor's DNA  
9 was found on the knit cap.

10       Government witness #1 will testify at trial that Tillman and  
11 Taylor committed a casino robbery in Henderson in 2002. This  
12 witness will testify that Tillman and Taylor used some of the  
13 profits from the casino robbery to buy an automobile for another  
14 member of the Playboy Bloods, Delvin Ward.<sup>1</sup> This witness will  
15 testify that Taylor and Tillman were expected to "kick back" some  
16 of the money to Delvin Ward because he was the Playboy Blood  
17 member who "had all the dope," and this was done to increase  
18 their favor with Mr. Ward.

19  
20       Government witness #2 will testify that he/she talked with  
21 Tillman and Taylor about the casino robbery. These two  
22 defendants told the witness that they used firearms to rob the  
23 casino as well as other details about the robbery. This witness  
24 will confirm that Delvin Ward received a "kick back" from the

25 \_\_\_\_\_  
26       <sup>1</sup> On June 1, 2010, Delvin Ward pleaded guilty to RICO  
27 conspiracy and admitted he was a leader organizer. (Doc. 347)

1 casino robbery from these two defendants. This witness will  
2 testify that Tillman and Taylor bought Mr. Ward an automobile.  
3 Taylor and Tillman also gave Ward some of the money involved so  
4 they could buy larger quantities of drugs.

5 It is apparent from the testimony of these two witnesses  
6 that the Klondike Casino robbery was committed by members of the  
7 Playboy Bloods. Profit from this armed robbery was split with  
8 another Playboy Blood member who "had all the dope." Profit from  
9 this casino robbery was also pooled together to buy larger  
10 quantities of controlled substances. Robberies and narcotics  
11 trafficking are both alleged as being part of the pattern of  
12 racketeering activity committed by the enterprise.

13  
14 At this time the Government does not intend to offer direct  
15 evidence of any other casino robberies in it's case in chief. If  
16 new evidence comes to light regarding other casino robberies the  
17 Government will supplement its response immediately.

18 III. Booth Arrested at VFW Hall with a Firearm

19  
20 Defendant Tillman's description of this event is less than  
21 complete. This incident relates to both the violent nature of  
22 the Playboy Bloods as well as their drug trafficking activity.

23 On October 3, 2003 at around 12:40 hours, LVMPD officers  
24 were conducting a bar check at 1905 H St., the VFW hall.  
25 Officers observed several subjects standing in the parking lot  
26 who appeared to be conducting hand to hand transactions with  
27

1 people walking up to them briefly. Officers believed these were  
2 drug transactions because they were passing money back and forth.  
3 When officers approached this area the subjects yelled "5-0!,"  
4 jumped a brick wall and began running. Defendant Booth ran  
5 through the VFW hall parking lot toward the front door, lifted up  
6 his shirt, grabbed something out of his waist band and threw  
7 something behind the front tire of an automobile. Defendant  
8 Booth then attempted to hide in the VFW hall but was detained by  
9 security. Officers discovered that defendant Booth had placed a  
10 .38 special loaded Smith and Wesson firearm underneath the car  
11 while he was fleeing police. Officers also recovered a highpoint  
12 firearm hidden under a truck in the parking lot as well as a  
13 large bag of marijuana in the truck bed.

14 Evidence of this incident offers proof of the racketeering  
15 enterprise. Officers will testify that they observed what  
16 appeared to be drug transactions, taking place in Playboy Blood  
17 territory. They also observed defendant Booth taking part in  
18 this activity while armed with a loaded weapon. This supports  
19 the allegations in the Superseding Indictment that Playboy Blood  
20 members carried firearms and trafficked in controlled substances.

#### 21 IV. Taylor's Mental Health Issues

22 The government will not attempt to introduce evidence  
23 relating to defendant Taylor's mental health. The government only  
24 intends to introduce defendant Taylor's admissions that are  
25 relevant to proving his membership in the Playboy Bloods.  
26  
27

1 V. The McLodden Shooting

2 On July 21, 2002, at approximately 23:45 hours, Mr.  
3 McClodden was shot in the back at a location at or around 1721  
4 "H" Street. This incident represents the larger ongoing gang  
5 rivalry between the Bloods and the Crips as a whole. McClodden  
6 told LVMPD that he was living with his step-father at the time in  
7 this complex, one predominately controlled by the Playboy Bloods.  
8 McClodden is a documented member of the North Town Gangster  
9 Crips.  
10

11 McClodden explained that around 22:50 hours he was on his  
12 front porch and noticed Steven Booth and Demichael Burks<sup>2</sup>  
13 outside. He then noticed another individual pull into the  
14 parking lot. McClodden believed something "was up," so he called  
15 his girlfriend to come pick him up. When he returned back to his  
16 residence he saw defendant Booth, Burks, and two other  
17 individuals standing near his home.

18 McClodden will testify that he saw defendant Booth and Burks  
19 point at McClodden and then the other two individuals began  
20 running after him. McClodden will testify that one of the  
21 individuals caught up to him and pointed a chrome firearm in his  
22 direction while Booth and Burks watched the incident. As  
23 McClodden attempted to get into his home he was shot in the back  
24

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25  
26 <sup>2</sup> On November 1, 2010, Demichael Burks pleaded guilty to  
27 RICO conspiracy. (Doc. 411)



1 by one of these individuals. McClodden then observed the  
2 individual who shot him flee the scene with Steven Booth and  
3 Demichael Burks. McClodden identified Reynaldo Gardner as the  
4 individual who shot him in the back and fled the scene with  
5 defendant Booth.

6 This incident supports the Superseding Indictment which  
7 charges the Playboy Bloods with preserving power and territory  
8 through violence. (Indictment p.6) This incident supports the  
9 Superseding Indictment, which alleges that the Playboy Bloods  
10 have rival street gangs including Donna Street Crips<sup>3</sup>.  
11 (Indictment p. 3)  
12

13 More importantly, this incident supports the allegation in  
14 the Superseding Indictment that the Playboy Bloods primarily  
15 operate in the Sherman Garden Annex and are involved in murder,  
16 and attempted murders. (Indictment p. 3)

17 That defendant Booth and Demichael Burks, known Playboy  
18 Bloods members, pointed out a rival gang member in Playboy Blood  
19 territory, who was then shot in the back, and the shooter  
20 subsequently fled with Booth and Burks, is surely relevant to the  
21 enterprise and the pattern of racketeering activity.  
22

23 . . . .  
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25 <sup>3</sup> The Government acknowledges that the victim was an  
26 North Town Gangster Crip however the rivalries cover nearly all  
27 crip sets.

VI. DUNLAP SHOT IN DRIVE-BY SHOOTING

At this time, the government has no intention of introducing evidence that defendant Taylor was shot in a drive by shooting on March 23, 2007.

DATED this 20th day of Septemebr 2012.

Respectfully submitted,

DANIEL BOGDEN  
United States Attorney

\_\_\_\_\_/s/  
NICHOLAS D. DICKINSON  
PHILLIP SMITH  
Assistant United States Attorneys

KEVIN ROSENBERG  
Department of Justice  
Organized Crime and Gang Section

Attorneys for Plaintiff  
UNITED STATES OF AMERICA

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